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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,063

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Satoshi Tani

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07/24/2006

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EXAMINER

BASINGER, SHERMAN D

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/728,063	Applicant(s) TANI ET AL.	
	Examiner Sherman D. Basinger	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-14, 22 and 23 is/are allowed.
- 6) ☒ Claim(s) 15-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. Claims 5-14, 22 and 23 are allowed.

Claim Objections

2. Claim 22 is objected to because of the following informalities: in line 3 "can" is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 19-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed fails to provide support for the means for allowing being configured to be operated by the operator's first hand while the operator simultaneously operated both the steering actuator and the throttle control device. This is a new matter rejection.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3617

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kleeman et al of record.

Kleeman et al discloses a method of controlling an engine speed of a marine engine that powers a propulsion unit of a watercraft (see column 2, lines 58 and 59), the method comprising adjusting a throttle valve control lever 10 thereby adjusting the power output of the marine engine, moving an idle speed control lever 66 from a first position which defines a first predetermined throttle resting position figure 4, moving the idle speed control lever 66 to a second position which defines a second predetermined throttle resting position figure 5, the second throttle resting position of figure 5 causing the engine to power the propulsion unit by an amount sufficient to assist steering of the watercraft when decelerating from at least a planning speed, and the step of selecting between the first throttle resting position and the second throttle resting position clearly being independent of a steering condition of the watercraft.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kleeman et al in view of Powers.

Kleeman et al does not disclose that the selection of engine speed is controlled automatically. Powers discloses the use of an electric motor to control the throttle, which means that the throttle and therefor the engine speed is controlled automatically through the electric motor. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to control the throttle of Kleeman et al automatically and therefor the engine speed automatically through the use of an electric motor. The electric motor can be used to automatically adjust the throttle in response to adjustment of knob 66 and head 42 of Kleeman et al. Motivation to do so is to not have linkage between the lever 10 and the throttle.

Response to Arguments

9. Applicant's argument that claim 10 should not have been objected to in the last office action because "a biasing mechanism" in claim 10, line 12 provided antecedent basis for "the biasing mechanism operating on the throttle lever" and "the biasing mechanism operating on the control lever" is noted. However, it is unclear how "a biasing mechanism that biases the throttle actuator mechanism" provides basis for "the biasing mechanism operating on the control lever" and "the biasing mechanism

operating on the throttle lever" because the throttle lever and the control lever are different than the throttle actuator mechanism.

10. Applicant argues that Matsuda et al does not anticipated claims 5, 6, 7 and 11. This argument is based on an error in the last office action. The last office action stated that the above claims were anticipated by Matsuda et al instead of stating that the above claims were unpatentable over Matsuda et al in view of Kleeman et al. The rationale following the anticipated rejection makes it clear that the rejection should have been the latter. None the less, claims 5, 6 7 and 11 are allowed over Matsuda et al and Kleeman et al in view of the amendments to claim 5.

11. With regard to claims 15 and 16, these claims are still rejected with Kleeman et al. In Kleeman et al the second lever is knob 66 which meets the definition of a lever.

12. Applicant's arguments concerning claims 19-21 are noted. However, a new grounds of rejection under the first paragraph of 35 U.S.C. 112 is set forth in view of the added subject matter in claim 19 specifically spelled out above.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sherman D. Basinger

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Primary Examiner
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7/10/06